**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN**

**WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929**

**WP(C).No. 37127 of 2004(T)**
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**PETITIONER:**
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**MR.R.J.SIMON, S/O.R.C.JOSEPH,**
**PANAMTHOTTATHIL HOUSE, AGALI P.O.,**
**ATTAPPADY, MANNARAKKAD TALUK, PALAKKAD DISTRICT.**

**BY ADV. SRI.C.J.JOY,**
**SRI.V.J.JAMES.**

**RESPONDENTS:**
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1. **THE KERALA STATE HOUSING BOARD,**
   **REP. BY THE CHAIRMAN, KERALA STATE HOUSING BOARD,**
   **TRIVADRUM.**

2. **THE ASST. SECRETARY,**
   **KERALA STATE HOUSING BOARD,**
   **MANNARKKAD BRANCH, PALAKKAD DISTRICT.**

**BY ADV. SRI.P.C.IYPE,**
**SRI.A.JAYASANKAR, SC KSHB, TVM.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C). NO.37127/2004:**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE DEMAND NOTICE DTD. 11/10/2002 ISSUED THE R.2.**

**EXT.P.2: COPY OF THE REPRESENTATION DTD. 25/01/2003 SENT BY THE PETITIONER TO THE R.1.**

**EXT.P.3: COPY OF THE REPRESENTATION DTD. 28/09/2003 SUBMITTED THE PETITIONER TO THE R.1.**

**EXT.P.4: COPY OF THE DEMAND NOTICE DTD. 31/10/2003 ISSUED BY THE R.2. TO THE PETITIONER.**

**EXT.P.5: COPY OF THE REPRESENTATION DTD. 14/11/2003 SUBMITTED BY THE PETITIONER TO THE R.2.**

**EXT.P.6: COPY OF THE REPRESENATION DTD. 17/03/2004 SUBMITTED BY THE PETITIONER TO THE R.2.**

**EXT.P.7: COPY OF THE NOTICE DTD. 02/12/2004 ISSUED BY THE R.2. TO THE PETITIONER.**

**EXT.P.8: COPY OF THE REPRESENTATION DTD. 07/12/2004 SUBMITTED BY THE PETITIONER TO THE R.1.**

**RESPONDENT'S EXHIBITS:** **NIL.**

**//TRUE COPY//**

**prv.**

**THOTTATHIL B.RADHAKRISHNAN, J.**

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W.P(C).No.37127 OF 2004

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Dated this the 19th day of September, 2007

**JUDGMENT**

The petitioner availed a loan from the Housing Board. He filed this writ petition challenging distress action for recovery of the outstandings. The fundamental contention was that an application filed by him for the benefit of One Time Settlement Scheme has not been attended to by the respondents. Accordingly, at the time of admission, an interlocutory order was issued on 21.12.2004, directing that Ext.P8 representation seeking the benefit of One Time Settlement Scheme may be disposed of.

2. A counter affidavit is on record. It is the specific averment of the respondents that the petitioner submitted the application on 7.12.2004 to the Chairman of the Hosing Board, stating that he is ready to close the loan account by availing the benefit of One Time Settlement Scheme to avoid revenue recovery proceedings. The Chairman had issued an order of stay of revenue recovery proceedings temporarily and orders in this

regard was given to the petitioner on 15.12.2004, i.e., even before this Court issued the aforesaid interlocutory order. It is the specific averment of the respondents that the details of One Time Settlement Scheme due to the petitioner and amounts payable by him was intimated, however, that he had not responded favourably till the date of the counter affidavit, which is 10.5.2005. The revenue recovery proceedings were stayed immediately on receipt of the representation for One Time Settlement and the petitioner did not availed the benefit, details of which was intimated to him on 21.12.2004.

The aforesaid uncontroverted averments in the counter affidavit clearly shows that the petitioner had not utilised the benefit of One Time Settlement Scheme. No other grounds are raised in this writ petition. The writ petition, therefore, fails. The same is dismissed accordingly.

Sd/-

**THOTTATHIL B.RADHAKRISHNAN,**
**Judge**

kkb.